

TOWN OF ALLENSTOWN

CO 217: REGULATION OF DISCHARGES INTO STORM WATER DRAINAGE SYSTEM

CO 217.01 Purpose

The purpose of this ordinance is to:

- A. Provide for the health, safety, and general welfare of the citizens of the Town of Allenstown (Town) by controlling discharges to the Town's storm water system and to maintain, protect and preserve the Storm Water System of the Town;
- B. Enable the Town to comply with the requirements of the Town's Municipal Separate Storm Sewer System General Permit (MS4 Permit) issued by the United States Environmental Protection Agency (EPA) under the National Pollution Discharge System (NPDES) program and applicable regulations for storm water discharge.

CO 217.02 Definitions

For the purpose of this Ordinance, the terms listed below are defined as follows:

- A. Discharge: "Discharge" includes any spilling, leaking, pumping, pouring, emptying, dumping, conveying, or otherwise disposing.
- B. Enforcement Authority: "Enforcement Authority" means the Road Agent, or his or her designee, which may include individuals or companies with expertise in environmental engineering, who shall administer, implement, and enforce the provisions of this Ordinance.
- C. Exempt Parties: Means a party that is exempt from the provisions of this Ordinance (CO 217: Regulation of Discharges Into Storm Water Drainage System). Exempt Parties are those facilities that are regulated for stormwater discharge by the United States Environmental Protection Agency under other permits. These facilities may include but may not be limited to the New Hampshire Department of Transportation (In Select Urbanized Areas) or Industrial Facilities with select ICS Codes (see table in CO 217.03 below).
- D. Illicit Discharge, Continuous: Means a discharge from a direct connection to a sanitary sewer, overflow from a malfunctioning septic system, inflow from a nearby subsurface sanitary sewer system that is malfunctioning, or an illegal connection from a commercial or industrial facility.
- E. Illicit Discharge, Intermittent: Means a discharge that occurs occasionally over a period of time (including, but not limited to several hours per day, or a few days per year) resulting from legal connections to the storm drain system, such as a legal sump pump connection that is illegally discharging anything other than groundwater. Intermittent

discharges can also result from activities including but not limited to drum washing in exterior areas.

F. Illicit Discharge, Transitory: Means a one-time event resulting from spills, breaks, dumping, or accidents. Shall also include the dumping of fertilizers, pesticides and other controlled substances in storm drains, water bodies, floor drains, or on impervious surfaces.

B.G. Person: “Person” means any individual, firm, corporation, trust, partnership, municipality, State agency, Federal agency, or other legal entity.

C.H. Pollutant: “Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid, solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinance, and accumulations so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and waste; sewage, fecal coliform, and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

D.I. Premises: “Premises” means any building, lot, parcel of land, parking areas or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Town from which discharges into the Storm Drainage System are or may be created, initiated, originated, or maintained.

E.J. Storm Drainage System: “Storm Drainage System” means the publicly owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins; natural and human-made or altered drainage channels, reservoirs, and other drainage structures. The privately owned and maintained service pipe extending from the Premises to the municipally owned main pipe, culvert, manhole, or other device in the public right of way shall not be considered part of the Storm Drainage System.

F.K. Storm Water: “Storm Water” means any natural precipitation including rain water runoff, snowmelt runoff, and surface runoff and drainage. “Stormwater” has the same meaning as “Storm Water.”

CO 217.03 Applicability

This Ordinance shall apply to all Discharges into the Storm Drainage System. This Ordinance shall not apply to Exempt Parties, as defined by this Ordinance in Section CO 217.02, provided that the facility in question is operating under a current and valid United States Environmental Protection Agency Stormwater Discharge Permit applicable to said facility. Table 1 below depicts those industrial facilities that may fall under the definition.

Table 1:
SIC Codes for MSGP Industrial Activities

Sector Name	SIC Code Listing
<u>Sector A: Timber Products</u>	<u>2411, 2421, 2426, 2429, 2431-2439 (except 2434), 2448, 2449, 2451, 2452, 2491, 2493, 2499</u>
<u>Sector B: Paper and Allied Products</u>	<u>2611, 2621, 2631, 2652-2657, 2671-2679</u>
<u>Sector C: Chemical and Allied Products</u>	<u>2812-2819, 2821-2824, 2833-2836, 2841-2844, 2851, 2861-2869, 2873-2879, 2891-2899, 3952 (limited to list)</u>
<u>Sector D: Asphalt Paving and Roofing Materials and Lubricants</u>	<u>2951, 2952, 2992, 2999</u>
<u>Sector E: Glass Clay, Cement, Concrete, and Gypsum Products</u>	<u>3211, 3221, 3229, 3231, 3241, 3251-3259, 3261-3269, 3271-3275, 3281, 3291, 3292, 3296, 3297, 3299</u>
<u>Sector F: Primary Metals</u>	<u>3312-3317, 3321-3325, 3331-3339, 3341, 3351-3357, 3363-3369, 3398, 3399</u>
<u>Sector G: Metal Mining (Ore Mining and Dressing)</u>	<u>1011, 1021, 1031, 1041, 1044, 1061, 1081, 1094, 1099</u>
<u>Sector H: Coal Mines and Coal Mining Related Facilities</u>	<u>1221-1241</u>
<u>Sector I: Oil and Gas Extraction and Refining</u>	<u>1311, 1321, 1381-1389, 2911</u>
<u>Sector J: Mineral Mining and Dressing</u>	<u>1411, 1422-1429, 1442, 1446, 1455, 1459, 1474-1479, 1481, 1499</u>
<u>Sector K: Hazardous Waste Treatment, Storage, or Disposal Facilities</u>	<u>HZ</u>
<u>Sector L: Landfills and Land Application Sites</u>	<u>LF</u>
<u>Sector M: Automobile Salvage Yards</u>	<u>5015</u>
<u>Sector N: Scrap Recycling Facilities</u>	<u>5093</u>
<u>Sector O: Steam Electric Generating Facilities</u>	<u>SE</u>
<u>Sector P: Land Transportation and Warehousing</u>	<u>4011, 4013, 4111-4173, 4212-4231, 4311, 5171</u>
<u>Sector Q: Water Transportation</u>	<u>4412-4499</u>
<u>Sector R: Ship and Boat Building or Repairing Yards</u>	<u>3731, 3732</u>
<u>Sector S: Air Transportation</u>	<u>4512-4581</u>
<u>Sector T: Treatment Works</u>	<u>TW</u>
<u>Sector U: Food and Kindred Products</u>	<u>2011-2015, 2021-2026, 2032, 2041-2048, 2051-2053, 2061-2068, 2074-2079, 2082-2087, 2091-2099, 2111-2141</u>
<u>Sector V: Textile Mills, Apparel, and Other Fabric Product Manufacturing, Leather and Leather Products</u>	<u>2211-2299, 2311-2399, 3131-3199 (except 3111)</u>
<u>Sector W: Furniture and Fixtures</u>	<u>2434, 2511-2599</u>
<u>Sector X: Printing and Publishing</u>	<u>2711-2796</u>
<u>Sector Y: Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries</u>	<u>3011, 3021, 3052, 3053, 3061, 3069, 3081-3089, 3931, 3942-3949, 3951-3955 (except 3952 facilities as specified in Sector C), 3961, 3965, 3991-3999</u>
<u>Sector Z: Leather Tanning and Finishing</u>	<u>3111</u>
<u>Sector AA: Fabricated Metal Products</u>	<u>3479, 3411-3499, 3911-3915</u>
<u>Sector AB: Transportation Equipment, Industrial or Commercial Machinery</u>	<u>3511-3599 (except 3571-3579), 3711-3799 (except 3731, 3732)</u>
<u>Sector AC: Electronic, Electrical, Photographic and Optical Goods</u>	<u>3571-3579, 3612-3699, 3812-3873</u>
<u>Sector AD: Non-Classified Facilities</u>	<u>N/A</u>

CO 217.04 Allowed Discharges

As provided in the MS4 Permit, and incorporating any amendments to the MS4 Permit that may be made from time to time, the following Discharges are allowed:

- A. Stormwater as defined.
- B. Water-line flushing;
- C. Landscape irrigation;
- D. Diverted stream flows;
- E. Rising groundwater;
- F. Uncontaminated groundwater infiltration (as defined by 40 C.F.R. § 35.2005(20));
- G. Uncontaminated pumped groundwater;
- H. Discharges from potable water sources;
- I. Air conditioning condensation;
- J. Irrigation water, springs;
- K. Uncontaminated water from crawl space pumps;
- L. Uncontaminated water from footing drains;
- M. Lawn watering runoff;
- N. Individual resident car washing;
- O. Flows from riparian habitats and wetlands;
- P. De-chlorinated swimming pool discharges;
- Q: Street wash waters (where spills/leaks of pollutants have not occurred, unless all spilled material has been removed and detergents are not used);
- R: Residential building wash waters without detergents;
- S. Discharges or flows from fire-fighting activities, unless otherwise identified as a significant source of pollutants to the waters of the United States;

- T. Discharges authorized under a separate permit or license issued by the United States Environmental Protection Agency (EPA) or New Hampshire Department of Environmental Services (DES) including but not limited to a National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.

CO 217.05 Prohibited Discharges

All discharges not allowed under CO 217.04 are prohibited. All Illicit Discharges, including Transitory, Intermittent, or Continuous are prohibited. Discharges may be prohibited notwithstanding that the Town approved the connections, drains, or conveyances by which a Person Discharges into the Storm Drainage System.

CO 217.06 Protection from Damage

No Person shall maliciously, willfully, recklessly, or negligently break damage, destroy, deface or otherwise tamper with, any pipe, drain, equipment, or other part of the Storm Drainage System.

CO 217.07 Monitoring and Inspections

In order to ensure compliance with this Ordinance, the Enforcement Authority may enter upon and inspect any Premises subject to this Ordinance with the consent of the Premises owner, tenant, or otherwise authorized Person, or without consent pursuant to RSA 595-B. The Enforcement Authority shall have the power to inspect the Premises and connections thereon to the Storm Drainage System and to conduct monitoring, sampling, and testing as often as may be necessary to determine compliance with this Ordinance.

CO 217.08 Spill Prevention, Control and Countermeasure Plans (SPCC)

Spill Prevention, Control, and Countermeasure Plan (SPCC) referenced in Article XXIV, Groundwater Protection Overlay District, shall include:

- (1) A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas;
- (2) Contact list and phone numbers for facility response coordinator, cleanup contractor, and all appropriate federal, state, local agencies who must be contacted in case of release into the environment (including those listed below);
 - a. The New Hampshire Department of Environmental Services (NHDES) Petroleum Products Spill Response
 - b. The NHDES Hazardous Material (non-oil spill).
 - c. The National Response Center (for chemical or oil spills that would directly impact the Merrimack or Suncook Rivers).
 - d. The United States Environmental Protection Agency (USEPA) 24-hour Emergency Inland Spills Response
 - e. New Hampshire State Police

f. Allenstown Police Department

g. Allenstown Fire Department

- (3) A list of all the regulated substances in use and locations of use and storage. This list shall be updated annually and submitted to the parties indicated above. The list shall also include the Materials Safety Data Sheet (MSDS) of the chemicals being stored.
- (4) A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure;
- (5) A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating the ground.
- (6) Provisions for employee training regarding the implementation of the SPCC.

It shall be the responsibility of the owner of the property or operator of the facility to update the SPCC annually and submit it to the Fire Chief no later than January 1 of each year. If no changes are made to the SPCC, a letter outlining this shall be submitted by the owner of the property or operator of the facility to meet this requirement.

CO 217.089 Enforcement and Fines

- A. Notice of Violation. Whenever the Enforcement Authority believes that a Person has violated this Ordinance, the Enforcement Authority may order compliance with this Ordinance by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation (Table 2 depicts discharge-specific details):
1. Disconnection of the Premises to the Storm Drainage System;
 2. The cessation of Discharges, practices or operations in violation of this Ordinance;
 3. At the Person's expense, the abatement of non-allowed Discharges and the restoration of any affected property; and/or;
 4. To extent authorized by law, the payment of fines, the payment of the Town's remediation costs, and of the Town's reasonable administrative costs and attorneys' fees and costs.
 5. A fine will accompany a Notice of Violation for a private property owner responsible for a one-time illicit discharge.
 6. For municipal discharges, the Town shall immediately issue a work order and remove the discharge.

7. Illicit Discharges from an Exempt Party: In the event that a discharge is identified from an Exempt Party, the Town of Allenstown will notify the Party and the enforcement authority for the Party’s permit. Such notice shall be both in writing and verbally from the Road Agent or Town Administrator within 24 hours of the discharge being identified.

Table 2:
Notification and Removal Procedures for Illicit Discharges Into the Municipal Separate Storm Sewer System

<u>Financially Responsible Party</u>	<u>Source Identified</u>	<u>Enforcement Authority</u>	<u>Procedure to Follow</u>
<u>Private Property Owner</u>	<u>One-time illicit discharge</u>	<u>Ordinance Enforcement Authority</u>	<u>Contact Owner; Issue Notice of Violation; Issue fine</u>
<u>Private Property Owner</u>	<u>Intermittent or continuous illicit discharge from legal connection</u>	<u>Ordinance Enforcement Authority</u>	<u>Contact Owner; Issue Notice of Violation; Determine schedule for removal; Confirm Removal</u>
<u>Private Property Owner</u>	<u>Intermittent or continuous illicit discharge from illegal connection or indirect</u>	<u>Notify Building Inspector</u>	<u>Notify Building Inspector</u>
<u>Municipal</u>	<u>Intermittent or continuous illicit discharge from illegal connection</u>	<u>Ordinance Enforcement Authority</u>	<u>Issue work order; Schedule removal; Remove connection; confirm removal</u>
<u>Exempt Party</u>	<u>Any</u>	<u>USEPA</u>	<u>Notify Exempt Party and USEPA of illicit discharge</u>

B. Penalties/Fines/Injunctive Relief.

1. Any Person who knowingly violates the provisions of this Ordinance may be fined in an amount not to exceed \$1,000. Each day in which any such violation shall continue shall be deemed a separate offense.

2. To the extent authorized by law, any Person who violates this Ordinance shall be responsible for any and all fines, penalties, damages, and costs, including, but not limited to attorneys’ fees and costs incurred by the Town for violation of federal and state environmental laws and regulations caused by or related to that Person’s violation of this Ordinance. This responsibility shall be in addition to any penalties, fines, or injunctive relief imposed under this Section.

3. Any Person who violates this Ordinance may be subject to orders for injunctive relief and shall be responsible for the Town’s attorneys’ fees and costs related thereto if injunctive relief is ordered by the Court.

- C. Consent Agreements. The Enforcement Authority may enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance, for the purpose of eliminating violations of this Ordinance, and of recovering fines, costs and fees without court action.
- D. Ultimate Responsibility of Discharger. The standards set forth herein are minimum standards; therefore, this Ordinance does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor authorized Discharge of Pollutants into water of the United States caused by such Person. This Ordinance shall not create liability on the part of the Town or any officer agent or employee therefore for any damages that result from any Person's reliance on this Ordinance or any administrative decisions lawfully made hereunder.
- E. Restoration/Remediation/Losses. The Enforcement Authority shall also have the right to levy an assessment of costs related to the restoration or impacted property, the remediation of non-permitted discharges, and such other quantifiable losses and damages caused by any non-permitted Discharge.
- F. Nothing in this ordinance precludes the Town's Zoning Enforcement Officer from exercising concurrent enforcement powers arising from the Town's planning, subdivision, site review, and zoning regulations as they may relate to Storm Water.

CO 217.0910 Severability

The provisions of this Ordinance are severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

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